



STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Donna M. Jones, State Controller
Tom Luna, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

Final Minutes
State Board of Land Commissioners' Regular Meeting
June 21, 2011

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 21, 2011 in Boise, Idaho. The meeting began at 9:03 a.m. in the second floor courtroom of the Borah Building, 304 North 8th Street, Boise. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa
Honorable Attorney General Lawrence Wasden (*via conference phone*)
Honorable State Controller Donna Jones
Honorable Superintendent of Public Instruction Tom Luna (*via conference phone*)

For the record, Governor Otter recognized the presence of all Board members, either in person or by telephone communication.

• **CONSENT**

1. Director's Report

- A. Interest Rate on Department Transactions – June 2011
- B. Timber Sale Activity and Information Report – May 2011
- C. Division of Lands, Minerals, Range Official Transactions – May 2011
- D. Legal Matter Summary – May 2011

DISCUSSION: Referring to the Timber Sale Activity and Information Report, Director Bacon noted the Department has been able to sell sales quite well, averaging as much as 35% up-bid on sales in the past month. Most of the demand for lumber from the United States seems to be in overseas markets; purchasers are taking advantage of that right now. Director Bacon commented that if not for the demand from overseas the lumber market would be fairly slow, but the Department is currently doing well. Director Bacon also noted monthly timber harvest receipts for May indicate almost zero, which is typical because of spring break up conditions; folks aren't logging and the Department isn't billing. That will rebound now that the warm weather has arrived.

Governor Otter made a general inquiry of the Secretary and the Board if the transfer of interest in cottage sites, as referenced in the Division of Lands, Minerals, Range Official Transaction Report, meets all legal requirements. Secretary of State Ysursa stated that assignments of cottage site leases within families do not generate premium rent, and that has been policy for quite a number of years.

2. Timber Sales for Approval – Staffed by Roger Jansson, Operations Chief-North, and Kurt Houston, Operations Chief-South

<u>NORTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
A. Junta Slivers	CR-10-0401	2,900	MBF	Bonner	Priest Lake (Coolin)
B. Rock Springs North	CR-20-0292	2,550	MBF	Bonner	Pend Oreille (Sandpoint)
C. Shove Hauser Poles	CR-22-5012	205	MBF	Kootenai	Mica (Coeur d'Alene)
		3,034	Poles		
D. Spirit Lake West	CR-22-5013	4,915	MBF	Kootenai	Mica (Coeur d'Alene)
E. No Help	CR-30-0584	5,095	MBF	Benewah	St Joe (St Maries)
F. Robinson Creek	CR-31-0018	5,365	MBF	Kootenai	Cataldo (Kingston)
G. Gravy Shattuck	CR-41-0058	7,950	MBF	Clearwater	Ponderosa (Deary)
H. Swamp Thing	CR-41-0064	4,205	MBF	Clearwater	Ponderosa (Deary)
<u>SOUTH OPERATIONS</u>				<u>COUNTY</u>	<u>AREA OFFICE</u>
I. White Pine Thunder	CR-40-1029	11,425	MBF	Clearwater	Clearwater (Orofino)
J. Deer Creek	CR-43-4025	3,060	MBF	Nez Perce / Lewis	Craig Mtn (Craigmont)
K. Boulder South	CR-50-0167	45,886	TONS	Valley	Payette Lakes (McCall)
L. Upper Howell	CR-60-0183	32,406	TONS	Boise	Southwest (Boise)
M. Swampy Draw	CR-80-0107	10,254	TONS	Clark	Eastern (Idaho Falls)

DISCUSSION: Secretary of State Yursa commented on the Ninth Circuit Court's ruling regarding logging roads and nonpoint source pollution and inquired how that may affect the Department's timber activity. Director Bacon responded that Department staff has been meeting in Seattle with the EPA who would be potentially enforcing the oversight of the stormwater pollutant permitting. There is still a question as to what extent the court or EPA will require permits. The EPA is looking at a general permit scenario, and it appears it would only apply where a culvert in a logging road is dumping directly into the waters of the United States. Many culverts on endowment land are cross drainage; they disperse and filter across the landscape or across the hillside and don't dump directly into a stream. Future roads can be designed to avoid draining directly into streams. Additionally, there is possibility of a legislative fix in Congress to restore silviculture exemption. The Department is preparing for the need to obtain permits while watching to see if legislation may occur to preclude that need.

3. Endowment Fund Investment Board Manager's Report – Presented by Larry Johnson, Manager of Investments, Endowment Fund Investment Board

A. Manager's Report – Mr. Johnson stated that distributions for FY2012 are well secured for all endowments. Estimated reserves in April are at least 5 times the size of approved 2012 distributions, except for Public School which is at 3.3 times its regular distribution, which is adequate at this point.

B. Investment Report – Mr. Johnson noted that the Endowment Fund lost slightly less than 1 percent in May, but continues to outperform the benchmark. Mr. Johnson advised that Fiscal year to date return is now just above 21%. All investment managers are performing as expected.

DISCUSSION: Mr. Johnson noted certain recent actions by the Endowment Fund Investment Board (EFIB). The EFIB met May 17th and reviewed the Land Board's Endowment Distribution Policy. The EFIB recommends that no changes be made with the exception of considering an increase in the distribution rate for State Hospital South; a recommendation will be made at the August Land Board meeting. Another component of Land Board Policy that was discussed is the objective to grow the permanent funds not only at the rate of inflation but at the rate of population growth. Last year the Superintendent asked the EFIB to consider whether this population growth should be based on the state in total, which would be about 2 percent, or customized for each endowment fund. The EFIB concluded that the 2 percent rate is suitable for all the endowments with the possible exception of the Public School Endowment. This additional growth rate is relevant only when an endowment has reached its targeted balances in its permanent fund and its reserve fund, so there is no decision needed in the near future on what growth rate to establish for the Public School Fund. The EFIB determined, after consultation with Health & Welfare, that the 2 percent rate is appropriate for State Hospital South. The EFIB also reviewed a preliminary estimate of FY2013 distributions and projected that five endowments will possibly have increases in distributions and three endowments will maintain FY2012 distribution levels. Based on the strict 5 percent formula used to calculate distribution, these three endowments may actually show a modest decrease in distribution, but the EFIB believes that reserves are sufficient to maintain distributions at FY2012 levels. Final recommendations on FY2013 distributions and transfers will be provided at the August 16, 2011 Land Board meeting. Mr. Johnson stated there are no areas of compliance to discuss.

Secretary of State Yursa acknowledged that the Board will see the final EFIB distribution recommendations in August, but noted that it seems likely the Public School distribution will remain at \$31.3 million. Mr. Johnson confirmed the Secretary's statement and added that the \$31.3 million is a little higher than the 5 percent formula in policy, but the EFIB believes the figure is prudent because there is more than three years' reserve for that endowment. Governor Otter inquired how much maintaining the \$31.3 million distribution would reduce the 3.3 years that is currently in Public School reserves. Mr. Johnson responded that the EFIB estimates reserves will grow slightly in the next fiscal year, assuming that land revenues are strong. Using the strict 5 percent formula to calculate the distribution shows that it would only reduce it to \$30 million; the impact of maintaining the distribution versus following the strict formula is minimal.

4. Authorization for Issuance of Deficiency Warrants to Pay Fire Suppression Costs in Fiscal Year 2012 –
Staffed by David Groeschl, Division Administrator-Forestry and Fire

DEPARTMENT RECOMMENDATION: That the Board authorize the Department to issue deficiency warrants necessary to pay the fire suppression costs beyond the \$151,600 appropriation for fiscal year 2012.

DISCUSSION: Governor Otter commented that with the wet spring there is a lot of undergrowth, a lot of brush for fuel and asked if the Department has a prognosis on potential fire threat. Director Bacon noted that the potential for the most dangerous fires is most likely down low as far as large fire growth, if grasses dry out. Director Bacon stated that most of the Department's fire responsibility is in the timber land, so the Department hopes that low grassland fire threat will not impact the lands that the Department protects. Director Bacon informed the Board that we have 70 Department employees on fires in other states, including Colorado, Alaska, Arizona, and New Mexico. Deploying IDL employees to assist in other states helps maintain their fire qualifications, provides opportunity for extra income paid by other agencies, and is occurring at a time when Idaho's need is not great. Governor Otter stated that he toured the Murphy Complex Fire from 2007 and noted there hasn't

been much grazing in that area so there is a lot of fuel. Governor Otter noted that with federal requirements for at least a 2 year rest from grazing, the fine fuels and other fuels are quite high and could be a substantial expense again if a fire were to recur. Director Bacon acknowledged the costliness of that fire and commented that it was very difficult to find seed that year, and may be difficult again this year. Governor Otter asked if the Department could harvest seed from the Murphy Complex zone since there is no grazing presently allowed. Governor Otter added that harvested seed might also be sold to other states. Director Bacon and Assistant Director Brammer offered to look into the feasibility of harvesting seed from endowment land as well as obtaining permission to harvest on federal land.

5. **State Participation as a Member of the Clearwater-Potlatch Timber Protective Association and Southern Idaho Timber Protective Association** – Staffed by David Groeschl, Division Administrator-Forestry and Fire

DEPARTMENT RECOMMENDATION: That the Board direct the Department to continue participation as a member of the Clearwater-Potlatch Timber Protective Association and Southern Idaho Timber Protective Association.

6. **Annual Strategic Plan Update** – Staffed by Patrick Hodges, Division Administrator-Support Services

DEPARTMENT RECOMMENDATION: That the Board direct the Department to submit the FY2012 – FY2015 Strategic Plan to the Division of Financial Management by the July 1, 2011 deadline.

7. **Approval of Minutes** – May 17, 2011 Regular Meeting (Boise)

CONSENT AGENDA BOARD ACTION: A motion was made by Controller Jones to approve the Consent Agenda as presented. Secretary of State Yursa seconded the motion. The motion carried on a vote of 5-0.

- **REGULAR**

8. **Revision of IDAPA 20.04.01 – Rules Pertaining to Forest Fire Protection** – Presented by David Groeschl, Division Administrator-Forestry and Fire

DEPARTMENT RECOMMENDATION: That the Board direct the Department to enter into negotiated rulemaking to revise IDAPA 20.04.01.

DISCUSSION: Secretary of State Yursa noted that it seemed a long time to wait until the 2013 legislative session. Division Administrator Groeschl commented that with fire season already underway, it may not be possible to fully engage stakeholders until late in the fall; the Department wanted to allow enough time to work through rules and ensure that stakeholders were in agreement with proposed rule changes.

BOARD ACTION: Secretary of State Yursa moved that the Board approve the Department's recommendation. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION**

None

At 9:38 a.m. a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345 subsections (a), (b) and (f) to: 1) consider hiring a public officer/employee, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need; 2) to consider the evaluation of a public officer/employee and 3) to communicate with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Attorney General Wasden requested that a roll call vote be taken and that the Secretary record the vote in the minutes of the meeting. Roll Call Vote: *Aye*: Ysursa, Wasden, Jones, Luna, Otter; *Nay*: None; *Absent*: None.

- **EXECUTIVE SESSION**

- A. Idaho Code 67-2345(1)(f) – to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: Tamarack Litigation]
- B. Idaho Code 67-2345(1)(f) – to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: Cottage Site Litigation]
- C. Idaho Code 67-2345(1)(a) – to consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general. [TOPIC: New Director Hire]
- D. Idaho Code 67-2345(1)(b) – To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. [TOPIC: Evaluation – Land Board]

At 10:27 a.m. the Board resolved out of Executive Session by unanimous consent. No action was taken by the Board during the Executive Session.

At 10:28 a.m. a motion to adjourn was made by Secretary of State Ysursa. Controller Jones seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

C. L. "Butch" Otter
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Yursa

Ben Yursa
Secretary of State



/s/ George B. Bacon

George B. Bacon
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the July 19, 2011 regular Land Board meeting.